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November 15, 2000

Via Hand Delivery

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
455 12th St., S.W., Room TW-A325
Washington, DC 20554

RECEIVED

NOV 15 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Comments of DIVA Systems Corporation on Further Notice of Proposed Rulemaking, CS Docket No. 97-80

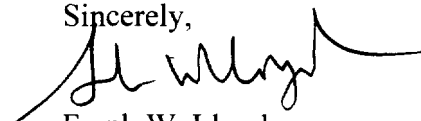
Dear Ms. Salas:

Enclosed for filing please find an original and four (4) copies of the Comments of DIVA Systems Corporation on Further Notice of Proposed Rulemaking. Also enclosed is an extra copy to be date-stamped and returned to our courier.

By copy of this letter I have also forwarded the Comments on diskette to Thomas Horan, Cable Services Bureau, Federal Communications Commission as well as to International Transcription Service, Inc.

Please do not hesitate to contact me with any questions.

Sincerely,



Frank W. Lloyd

FWL/tsk
Enclosures

cc: Thomas Horan
International Transcription Service, Inc.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Implementation of Section 304 of the)
Telecommunications Act of 1996)
)
Commercial Availability of Navigation Devices)

CS Docket No. 97-80

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**COMMENTS OF
DIVA SYSTEMS CORPORATION
ON FURTHER NOTICE OF PROPOSED
RULEMAKING**

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November 15, 2000

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
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**COMMENTS OF
DIVA SYSTEMS CORPORATION
ON FURTHER NOTICE OF PROPOSED RULEMAKING**

DIVA Systems Corporation (“DIVA”) opposes the Further Notice’s proposal to move up the date on which cable operators are prohibited from deploying “integrated navigation devices” from the current January 1, 2005 deadline to 2003, or even earlier.

The Commission chose the January 1, 2005 date in order to “minimize the economic impact of the prohibition on manufacturers and MVPDs by allowing them sufficient time to respond to equipment modifications and a changed market.”^{1/} The need for adequate lead time is of equal concern to advanced services developers like DIVA that work with navigation device manufacturers to integrate their technology into the next generation of set top boxes with separated security.

DIVA is a privately held company founded in June 1995. DIVA began commercial deployment of its video-on-demand entertainment network over cable television systems in 1997. As a leading provider of interactive video-on-demand products and services for the cable television industry, DIVA provides the hardware, software, back office and integration expertise

^{1/} Further Notice of Proposed Rulemaking and Declaratory Ruling, CS Docket No. 97-80, FCC 00-341 (rel. September 18, 2000) at ¶10.

to enable cable companies to provide their customers with immediate affordable access to hundreds of viewing choices, including feature films, children's programming, events and educational programming, using their remote control.

DIVA has been working with a number of cable multiple system operators and set-top box manufacturers to integrate DIVA's VOD solution with advanced digital set-top boxes. For example, in the attached May 8, 2000 press release DIVA announced that it was demonstrating its VOD services for customers using the DCT-5000 series advanced set-top box from Motorola. DIVA's solution, however, is hardware-independent, and DIVA is working with a number of different set-top box manufacturers.

The first generation video-on-demand platform that DIVA has been providing has been tied to current set-top boxes that have embedded security. DIVA has been working with major set-top manufacturers, however, to coordinate with them as they attempt to help cable operators meet the FCC's deadline of January 1, 2005 to phase out the distribution of integrated security boxes in favor of set-top boxes with separate point of deployment security modules (PODs) that could also interface with the DIVA VOD platform. DIVA has developed its own schedule to be compatible with the expected rollout of wide-scale separate security video-on-demand compatible POD host devices based on the FCC's original compliance date. DIVA's development schedule has been based on the reasonable expectation that this date was sufficiently aggressive that it would not be accelerated.

To now change gears to meet a new deadline would put a great strain on a small, innovative company like DIVA that is attempting to provide an interactive VOD service that is compatible not only with numerous manufacturers such as Motorola and Scientific Atlanta, but also with application managers, set-top box operating systems, and billing system providers, as

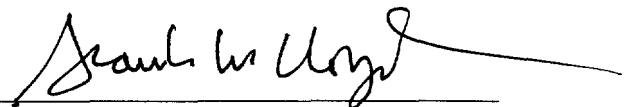
well as with content providers and cable system operators. For example, DIVA is presently working with four external middleware companies for the integration of DIVA's VOD user application, called the "Navigator." This effort includes addressing the security and open access aspects, and will require the present 2005 schedule to be successfully managed.

Managing and structuring this host of interrelationships to bring new products to market requires that DIVA --- as well as other leading edge interactive services providers --- have stability and certainty. For the FCC now to alter the lead time DIVA had anticipated and built into its time lines would upset DIVA's negotiations with the many industry players that must come together for major advances in VOD and other innovative services to be offered to consumers through next generation digital set-top boxes.

For this reason, DIVA urges the FCC to, at a minimum, maintain the existing deadline that was set for cable operators to cease deployment of embedded security set top boxes.

Respectfully submitted,

DIVA Systems Corporation

By 

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Its Counsel

November 15, 2000

EXHIBIT A

DIVA DEMONSTRATES VIDEO-ON-DEMAND SERVICE ON MOTOROLA'S DCT5000 SET-TOP RUNNING MICROSOFT TV ADVANCED

Redwood City, CA (May 8, 2000) - DIVA™, a leading provider of interactive video-on-demand (VOD) products and services for the cable television industry, announced today that it is demonstrating DIVA's end-to-end video-on-demand (VOD) solution integrated with Microsoft TV Advanced client software for advanced set-top boxes. This combination of DIVA and Microsoft TV Advanced provides another viable opportunity for Multiple System Operators (MSOs) to offer a compelling VOD service to customers using the DCT-5000 series advanced set-top box from Motorola. The DIVA solution is hardware independent and will work with all advanced set-tops that support Microsoft TV Advanced. Together VOD and Internet services expand the cable TV experience, generate new revenue streams and increase consumer demand for digital set-top-boxes and services.

"The industry now recognizes the need for deployment of multiple interactive applications on digital set-tops," said Ray McDevitt, Executive Vice President, Business Development and Product Management. "Microsoft TV Advanced is a strong platform enabling the cable operator to provide integrated interactive services and, more specifically, video-on-demand."

"DIVA's end-to-end VOD solution in conjunction with Microsoft TV Advanced offers network operators a great opportunity to enhance and expand customer value and open new revenue streams," said Alan Yates, director of marketing, TV Platforms Group at Microsoft Corp. "DIVA's powerful solution brings the promise of video-on-demand to our mutual customers."

DIVA Systems Corporation (www.divatv.com) is a privately held company founded in June 1995 and is headquartered in Redwood City, Calif. DIVA commercially launched its digital video-on-demand (VOD) service in cable television systems in the fall of 1997 and is the only company currently deploying an end-to-end video-on-demand service in North America. As a leading provider of interactive VOD products and services for the cable television industry, DIVA provides the hardware, software, back office and integration expertise to enable cable companies to provide their customers with immediate, affordable access to hundreds of viewing choices including feature films, children's programming and specialty shows, via their remote control. DIVA has also recently introduced an interactive program guide (IPG) as a stand-alone product that allows television viewers to search and access viewing choices in real-time.

DIVA's interactive video-on-demand products and services are now deployed in six cable systems in the U.S. with multiple system operators including Charter Communications, Insight Communications and MediaOne. DIVA has also established relationships with leading industry participants, including content providers such as Warner Bros., Sony Pictures, Universal, FOX, Disney, manufacturers of digital set-top boxes, providers of application managers and set-top box operating systems and billing system providers.

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This press release contains forward-looking statements relating to DIVA, including but not limited to, the ability of DIVA to successfully integrate its video-on-demand solution with Microsoft TV Advanced client software. Actual results may vary from anticipated results and such differences may be material, based on a number of factors, including network operator and customer demand for multiple interactive applications on digital set-top boxes and services, like those combining DIVA's video-on-demand solution and Microsoft TV Advanced software, and other factors as described in DIVA's Form 10-K for the year ended June 30, 1999 and DIVA's Form 10-Q for the quarters ended September 30, 1999 and December 31, 1999.

For More Information, contact:

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